

## DEPARTMENT OF BENEFIT PAYMENTS



August 9, 1974

ALL-COUNTY LETTER NO. 74-154

• TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: INCOME WORKSHOPS - QUESTIONS AND ANSWERS

REFERENCE:

In the recent statewide workshops on the treatment of income in AFDC, many questions were raised which required program review or clarification. This letter is intended to answer those questions concerning earned income. We will respond to the other income questions which were raised in a short time.

Separate workshops for prior month budgeting, unexpended income, and financial eligibility are being planned. Questions from the last workshops on these issues are being used to develop the upcoming workshops and will be dealt with there.

We are preparing a letter to all counties on educational loans and grants and will incorporate the answers to workshop questions in this area into that letter. Thank you for your suggestions for improvements of the regulations. These recommendations will be considered in the future revisions of the EAS manual.

Earned Income

Question: Is vacation pay of a recipient to be treated as earned income?

Answer: Vacation pay is earned income. Allow the family exemption and any mandatory deductions, but do not allow child care, transportation, or other work-related expenses.

Question: How do we treat the income of an AFDC recipient who is providing out-of-home board and care to an SSI/SSP recipient?

Answer: The \$250 out-of-home care payment in SSP is gross income from self-employment to the AFDC recipient. (See 44-113.21(b)). Deduct cost of room and board and apply the family exemption to the remainder. This sum is net income to the AFDC recipient.

### Tax Withholding

Question: If a recipient is precluded by Internal Revenue Service regulations from claiming all members of the AFDC household as dependents, may we require the recipient to claim them.

Answer: In accordance with Section 44-103, the applicant or recipient employee shall always claim one exemption for himself for income tax purposes. He shall also take all necessary action to claim any additional number of dependents that can reasonably be judged allowable on the basis of providing over 50% of their annual support.

### Child Care

Question: Are payments by recipients to unlicensed day care facilities allowable as work related expenses?

Answer: Yes. Allow verified child care payments as work related expenses. The fact that the home in which the child stays is unlicensed is an entirely separate issue which should be handled by the county's licensing unit. However, as long as the child is being cared for in that unlicensed home, the verified cost must be allowed as a work related expense.

Question: If the county has determined that nonworking persons in the household are available to care for the children, may the AFDC wage earner choose to send the children to a day care center at a reasonable rate?

Answer: If the county has determined adequate care is available in the home for no charge, the cost of such care in another facility would not be allowable as a work related expense.

Question: May the recipient send his/her children to the caretaker of his/her choice even though the county has determined that adequate child care is available in a licensed facility at a lower cost?

Answer: The recipient is free to make whatever child care provisions he/she chooses for the children. However, if the county determined free care was available which the recipient chose not to use, the cost of the child care he/she chose would not be an allowable expense. If the county determined that a licensed facility is available which could provide adequate child care which the recipient chose not to use, the actual cost to him/her would be allowed only up to the rate of such facility. **Reasonable and necessary child care is always subject to these limitations.**

Question: If a person in the household but not in the FBU caring for children is a day care operator, or if a relative in the home quits employment in order to care for children, may child care costs be allowed?

Answer: Yes. In the first situation, the day care operator would not be a "nonworking" person per 44-213.231(b), hence, the reasonable and necessary cost would be allowable. In the second situation the person in the household was a "working" person who terminated one type of employment for the specific purpose of caring for the children. Therefore, the reasonable and necessary cost would be allowable within the limitations of 44-213.231(b).

Question: Would a "working" person at home when the recipient is at work be a "nonworking" person and, thus, expected to provide child care for the recipient?

Answer: If the county determines that such person is not able to provide adequate care for the children in the household due to his/her work schedule or other work caused factors, the county shall allow the cost of obtaining other care during those hours the children cannot receive adequate care from such person.

Question: If a nonworking person living in the household refuses to care for the children, may the county allow the cost of obtaining other care?

Answer: If the county determines there is sufficient reason why adequate care for the children cannot be provided, the county may allow the cost of obtaining other care.

Question: If an AFDC-U father is in the home and nonworking but required to job search, can we allow the cost of other care?

Answer: If the county determines that the AFDC-U father's job search plan precludes him from caring for the children during all or part of the working hours of the working person, the reasonable cost of obtaining child care during those hours would be allowed.

Question: Can the reasonable child care expenses be allowed if the child is placed with a relative out of the home?

Answer: Yes.

Question: Can child care be allowed to a working AFDC recipient when such recipient's spouse is incapacitated and in the home with the children?

Answer: If the county has determined that the incapacitated parent remaining in the home cannot provide adequate care for the children, the cost for child care would be allowed.

Transportation

- Question: If the recipient chooses not to drive his/her car to work and has someone else drive him/her to work and also home from work, could two round trips be allowed?
- Answer: The driving which is specifically necessary for the recipient's employment - one round trip per work shift - shall be allowed. Two round trips would not be allowed unless the recipient is not able to drive him/herself.
- Question: If the recipient rides a bus to work, may the transportation expense allowed exceed 6¢ per mile?
- Answer: Yes. If public transportation is available to the recipient as the most reasonable means of transportation, the actual cost of public transportation would be allowed.
- Question: Must a recipient have a receipt for transportation if he/she rides in another person's automobile and pays him?
- Answer: The county has responsibility to determine that such expenses have, in fact, occurred. Receipts may be required by the county for this purpose.
- Question: If public transportation is not available for the return home from work, and thus the recipient must drive his/her own private car to ensure a ride home, may mileage be allowed at 12¢ a mile even though public transportation is available for the ride to work?
- Answer: If the county determines public transportation is not available both to and from work, 12¢ a mile may be allowed both ways.
- Question: If the recipient must take a taxi to work, what mileage can the county allow?
- Answer: If the county determines that there is no other mode of transportation available to the recipient to get to and from work, taxi fare may be allowed at actual expense.
- Question: Are tires and tubes needed for a bicycle used in transportation to work an allowable work related expense?
- Answer: The cost of such items is not allowable under 44-113.231(d).
- Question: An agricultural contractor charges his employees transportation costs for the ride to the worksite. How is this treated?
- Answer: The reasonable and necessary cost of such transportation to the recipient is allowable at costs up to a maximum of 6¢ a mile.

Other Expenses

Question: Recipient is paid on commission quarterly. However, child care and transportation are needed monthly. How do we treat the work related expenses?

Answer: Compute the work related expenses for the entire period covered by the income and deduct from nonexempt income for that period.

Question: Does EAS 44-113.232(b) allow for materials of a self-employed person as a work related expense or are these covered by another regulation?

Answer: No. The cost of material is considered a business work expense allowable under 44-113.233 and treated in accordance with 44-113.211(b) to arrive at gross earnings.

Question: Are wage garnishments for past debts allowable as a mandatory deduction?

Answer: EAS 44-113.23 does not allow for the recognition of garnishments as allowable expenses.

Question: Recipient's wage stubs show tips as part of gross earnings (from which deductions are computed); yet, the wage stubs also show that a portion of the tips are deducted from net income as required payments to other employees, e.g., the busboy. How would this situation be treated?

Answer: If the employer includes as part of the gross wages paid to the recipient tips paid to the busboy, the family exemption should be applied to this figure. Then that portion of the tips which the recipient is required to pay to other employees is deducted as a work related expense.

Question: Is an employment agency fee which is necessary to secure a job a valid work related expense?

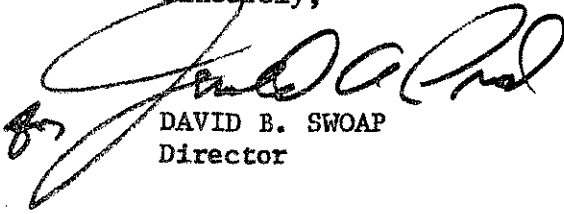
Answer: Yes. If it is a necessary cost to the recipient required to obtain employment and resulted in the employment of the recipient, it is allowable as a work related expense in computing the net nonexempt income (EAS 44-113.231(c)).

Question: Is the maintenance cost of a uniform allowable as a work related expense?

Answer: The maintenance cost of laundering a uniform required by the employer is allowable when the county has determined such cost to be necessary per EAS 44-113.231(c).

Further questions on these issues may be referred to the AFDC Program Operations Bureau (916) 445-4458.

Sincerely,

A large, stylized handwritten signature in dark ink, appearing to read "David B. Swoap". The signature is written over the printed name and title.

DAVID B. SWOAP  
Director

cc: CWDA